

THIS INSTRUMENT HAS BEEN PREPARED BY THE VIRGINIA GAS AND OIL BOARD

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

SUPPLEMENTAL ORDER REGARDING

ELECTIONS, UNIT: V-28

(herein "Subject Drilling Unit")

DOCKET NO. VGOB-95/01/16-0530

REPORT OF BOARD

FINDINGS AND ORDER

1. This Supplemental Order is entered by the Board sua sponte in the form authorized by the Board at its hearing held at 9:00 a.m. on October 20, 1992, Board of Supervisors Room, Courthouse, Grundy, Virginia, and pursuant to authority granted to the Board's Chairman at the hearing of the Virginia Gas and Oil Board on June 16, 1992 at 9:00 a.m. at the Rhododendron Restaurant at the Breaks Interstate Park, Breaks, Virginia; and this Supplemental Order is being recorded for the purpose of (1) complying with the requirements of § 7.c of the Virginia Gas and Oil Board Regulations, VR 480-05-22.2 by supplementing the Order previously issued by the Board for the subject Docket on April 1, 1996 and recorded at Deed Book 447, Page 319 in the office of the Clerk of the Court, Buchanan County, Virginia on December 19, 1995 and Supplemental Order signed September 5, 1996 at Deed Book 453, page 274 in the office of the Clerk of the Court, Buchanan County, Virginia on April 8, 1996 (herein "Board Order") to complete the record regarding elections. The Board Order pooled all interests in Subject Drilling Unit including those of the Respondents more particularly set forth and identified by the Designated Operator in the affidavits attached hereto and made a part hereof. The Board finds it has jurisdiction over the subject matter pursuant to the provisions of the Virginia Gas and Oil Act, § 45.1-361.1 et seq., Virginia Code, 1950 as amended.

2. Findings: The Board finds that:

(a) The Board Order directed Consol, Inc., (herein the "Designated Operator"), to mail copies of the Board Order to all Respondents whose interests, if any, were pooled by said Board Order;

(b) The Designated Operator filed its affidavit of mailing dated June 19, 1996 disclosing that it had mailed a true and correct copy of the Board's Order to all Respondents whose interests, if any, were pooled by said Board Order;

(c) The Board Order required each Respondent whose interests, if any, were pooled by the terms of said Board Order to make his or her election within thirty (30) days after the date of mailing or recording, as applicable, of said Order; the Designated Operator has filed its affidavit dated November 15, 1996 in accordance with 7.c of the Virginia Gas and Oil Board Regulations and VR 480-05-22.2 (herein "Affidavit of Election"),

wherein it has, for each Respondent whose interests, if any, were pooled by said Board Order, stated: (i) whether each Respondent has made or failed to make a timely election; (ii) the nature of the election made, if any; (iii) whether, by reason of a failure to elect or to timely elect one or more Respondents are deemed, under the terms of the Board's Order, to have leased all their rights, title, interests, estates and claims in Subject Drilling Unit to the Designated Operator;

(d) The Board Order further required the Designated Operator, after expiration of the election period, to file with the Board a statement of the interests subject to escrow under the terms and provisions of the Board Order, in light of the elections made or deemed to have been made (herein "Statement of Interests"); that the Designated Operator furnished said Statement of Interests as part of its Affidavit of Election. A copy of which is attached hereto as Exhibit A.

(e) Current Board standards requiring the escrow of funds and the Board's agreement with its Escrow Agent, Tazewell National Bank, Trust Department, c/o Premier Bankshares Corporation, 29 College Drive, P. O. Box 1199, Bluefield, Virginia 24605, or any successor named by the Board, require the entry of a Supplemental Order establishing of record the elections made or deemed to have been made and specifying the sums or percentage thereof subject to escrow.

(f) Certain scriveners errors were made in the preparation of the Board Order issued on April 1, 1996. Said errors are corrected by this Supplemental Order as follows:

(i). Paragraph 4. of the April 1, 1996 Order is stricken, and the following language is substituted therefore: Amendments: None.

(ii). At chart on top of page 3, the language under the heading "Permitted Well Locations" is stricken and the following language is substituted therefore: Three (3) well bores to be located in Unit V-28 in long wall panels 1 and 2 Left. Approximate well depth 1,801.

(iii). Paragraph 17.6 of the April 1, 1996 Order is stricken, and the following language is substituted therefore: Subject Drilling Unit is affected by Long Wall Panels 1 Left and 2 Left in the Buchanan 1 Mine, as depicted on Exhibit G hereto.

3. Order: By this Order, the Board orders the Designated Operator to tender, consistent with and in accordance with the findings set forth at paragraph 2. above and the annexed Affidavits, any funds subject to escrow and instructs the Escrow Agent, Tazewell National Bank, Trust Department, c/o Premier Bankshares Corporation, 29 College Drive, P. O. Box 1199, Bluefield, Virginia 24605, or any successor named by the Board to establish interest-bearing escrow account(s), IRS Tax Identification Number 54-1629506, in accordance with the information set forth in said Affidavits to receive such funds and account to the Board therefore.

4. Mailing of Order and Filing of Affidavit: The Designated Operator under the captioned order or its Attorney shall file an affidavit with the Secretary of the Board within ten (10) days after the date of receipt of this Order stating that a true and correct copy of this Order was mailed within seven (7) days from the date of receipt of this Order to each person whose interest or claim is subject to escrow and whose address is known.

5. Conclusion: Therefore, the findings and all terms and provisions set forth above be and hereby are granted and IT IS SO ORDERED.


6. Effective Date: This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 28<sup>th</sup> day of January 1997, by a majority of the Virginia Gas and Oil Board.

  
Chairman, Benny R. Wampler

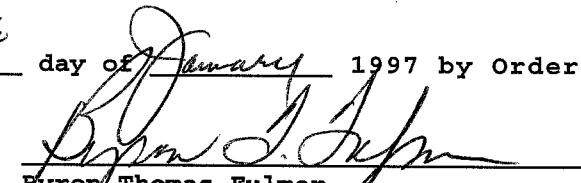
STATE OF VIRGINIA)  
COUNTY OF WISE )

Acknowledged on this 28<sup>th</sup> day of January, 1997, personally before me a notary public in and for the Commonwealth of Virginia, appeared Benny Wampler, being duly sworn did depose and say that he is Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

  
Susan G. Garrett  
Notary Public

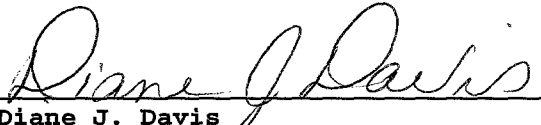
My commission expires 7/31/98

DONE AND PERFORMED this 28<sup>th</sup> day of January 1997 by Order of this Board.

  
Byron Thomas Fulmer  
Principal Executive to the Staff  
Virginia Gas and Oil Board

STATE OF VIRGINIA  
COUNTY OF WASHINGTON

Acknowledged on this 28<sup>th</sup> day of January, 1997, personally before me a notary public in and for the Commonwealth of Virginia, appeared Byron Thomas Fulmer, being duly sworn did depose and say that he is Principal Executive to the staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

  
Diane J. Davis  
Notary Public

My commission expires 9/30/97

VIRGINIA:

Exhibit A

## BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE:

Application of CONSOL Inc., Inc. for Forced Pooling of Interests in Unit Number V-28, VGOB Docket No. 96-0116-0530 in the Garden District of Buchanan County, Virginia

AFFIDAVIT OF CONSOL Inc. (herein "Designated Operator") REGARDING ELECTIONS, ESCROW AND SUPPLEMENTAL ORDER

Leslie K. Arrington (herein Affiant), being first duly sworn on oath, deposes and says:

1. That your Affiant is employed by Consol, Inc. and assigned to CONSOL Inc., the Designated Operator, at its office located at P.O. Box 947 Bluefield, VA 24605, that your Affiant is the Designated Operator's Permit Specialist, and is authorized to give this Affidavit in its behalf;

2. That the Order entered on April 1, 1996, by the Virginia Gas and Oil Board regarding the captioned CBM Unit required the Applicant to mail a true and correct copy of said Order to each person pooled by said Order;

3. That your Affiant caused a true and correct copy of the Order referred to at paragraph 2. above to be mailed via the United States Postal Service to each Respondent named in the captioned Application, whose address was known, and to all persons, if any, who were added as Respondents at the hearing held in the captioned matter; that the Designated Operator filed its affidavit of mailing, with attachments, with the Board by mail on June 19, 1996;

4. That the Order of the Virginia Gas and Oil Board in the captioned matter required all persons pooled thereby to tender their written elections to the Unit Operator within thirty (30) days of the date said Order was recorded in the county above named; that said Order was recorded on April 8, 1996.

5. That the Designated Operator, Consol, Inc., has established procedures to review all mail received and all written documents received by means other than by mail to ascertain whether parties whose interests have been pooled have made a written election, in a timely fashion, as required by the captioned Order; that said procedures were followed to identify the elections, if any, made with regard to Subject Unit; that the following persons delivered, by mail or otherwise, written elections to the Unit Operator, within the thirty day election period:

None.

6. That the interests and/or claims of the following persons (who made timely elections, or who are deemed under the terms of the Board's Order to have leased, or who have leased or otherwise entered into an agreement with the Designated Operator are subject to escrow under the Board's Order pooling the captioned Unit, Board Regulations and the Code of Virginia;

See Exhibit B-3 for persons deemed to have leased; see Exhibit E for conflicting claims subject to escrow.

7. That after the pooling hearing held in the captioned matter, the following persons have leased or entered into a voluntary agreement with the Designated Operator with regard to their interests and/or claims which are not subject to escrow and should, therefore, be dismissed as Respondents:

See Exhibit B-2.

8. That pursuant to the provisions of VR 480-05-22.27.C and VR 480-05-22.2.8, annexed hereto and incorporated herein is a proposed supplemental order to be entered to complete the record regarding elections; that said annexed supplemental order sets forth and identifies the conflicting claims and/or interests which require escrow of funds pursuant to the terms of §§ 45.1-361.21.D, 45.1-361.22.A.3 and 4.;

Dated at Bluefield, Virginia, this 18<sup>th</sup> day of November, 1996.

Leslie K. Arrington Jr.  
Affiant

Taken, subscribed and sworn to before me by Leslie K. Arrington, the Permit Specialist, of Consol, Inc., a corporation, on behalf of the corporation, this 18<sup>th</sup> day of November, 1996.

My commission expires: 9/30/97

Diane J. Davis  
Notary

Exhibit B-3  
Oakwood Field Unit V-28  
VGOB-96/01/16-0530  
List of All Unleased Owners/Claimants

	Acres in Unit	Percent of Unit	Division of Interest In 1 LEFT = 28.2051%	Division of Interest in 2 LEFT = 17.6547%
<b><u>I. OIL &amp; GAS FEE OWNERSHIP</u></b>				
<b><u>Tract 3a, 0.25 acre tract</u></b>				
(2) John Ford Rt.1, Box 169 Raven, VA 24639	0.25 acres	0.3159 %	0.0891 %	0.0558 %
<b><u>Tract 7a, 0.89 acre tract</u></b>				
(3) Coy Horn Box 555 Keen Mountain, VA 24624	0.89 acres	1.1121 %	0.3137 %	0.1963 %
<b><u>Tract 14, 0.51 acre tract</u></b>				
(4) Kell E. Vandyke P.O.Box 588 Oakwood, VA 24631	0.51 acres	0.6319 %	0.1782 %	0.1116 %
<b><u>Tract 16, 6.66 acre tract</u></b>				
(5) Full Gospel Church P.O.Box 633 Oakwood, VA 24631	6.66 acres	8.3281 %	2.3489 %	1.4703 %

Exhibit E  
Oakwood Field Unit V-28  
VGOB-96/01/16-0530  
List of Conflicting Owners/Claimants

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	Acres in Unit	Percent of Unit	Division of Interest in 1 LEFT = 28.2051%	Division of Interest in 2 LEFT = 17.6547%
<b><u>Tract 1, 7.60 acre tract</u></b>				
<b><u>COAL FEE OWNERSHIP</u></b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	7.6 acres (TR 17)Tract 1	9.5034 %	2.6804 %	1.6778 %
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>				
(1) Roscoe Deskins Rt. 1, Box 107 Raven, VA 24639	7.6 acres (TR 17)Tract 1	9.5034 %	2.6804 %	1.6778 %
<b><u>Tract 2A, 1.54 acre tract</u></b>				
<b><u>COAL FEE OWNERSHIP</u></b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	1.54 acres (TR 17)Tract 2A	1.9209 %	0.5418 %	0.3391 %
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>				
(1) Selma June Mullins Box 492 Keen Mountain, VA 24624	1.54 acres (TR 17)Tract 2A	1.9209 %	0.5418 %	0.3391 %
<b><u>Tract 2B, 2.14 acre tract</u></b>				
<b><u>COAL FEE OWNERSHIP</u></b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	2.14 acres (TR 17)Tract 2B	2.6791 %	0.7556 %	0.4730 %
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>				
(1) Kathy Looney Rt. 1 Box 162A Raven, VA 24639	2.14 acres (TR 17)Tract 2B	2.6791 %	0.7556 %	0.4730 %
<b><u>Tract 2C, 4.93 acre tract</u></b>				
<b><u>COAL FEE OWNERSHIP</u></b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	4.93 acres (TR 17)Tract 2C	6.1671 %	1.7394 %	1.0888 %
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>				
(1) Gussie Johnson Rt. 1 Box 165 Raven, VA 24639	4.93 acres (TR 17)Tract 2C	6.1671 %	1.7394 %	1.0888 %
<b><u>Tract 3, 24.46 acre tract</u></b>				
<b><u>COAL FEE OWNERSHIP</u></b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	24.46 acres (TR 17)Tract 3	30.5700 %	8.6223 %	5.3970 %



**Exhibit E**  
**Oakwood Field Unit V-28**  
**VGOB-96/01/16-0530**  
**List of Conflicting Owners/Claimants**

BOOK **458** PAGE **161**

	<b>Acres in Unit</b>	<b>Percent of Unit</b>	<b>Division of Interest in 1 LEFT = 28.2061%</b>	<b>Division of Interest in 2 LEFT = 17.6547%</b>
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>				
(1) A.J. Harmon heirs	24.46 acres (TR 17)Tract 3	30.5700 %	8.6223 %	5.3970 %
(a) Henry Harmon Rt. 1, Box 171 Raven, VA 24639	8.8945 acres	11.1164 %	3.1354 %	1.9626 %
(b) Walter K. Keen P.O. Box 447 Raven, VA 24639	13.3418 acres	16.6745 %	4.7031 %	2.9438 %
(c) Kendris Harmon 404 Fairway Drive Abingdon, VA 24210	2.2236 acres	2.7791 %	0.7838 %	0.4906 %
<b><u>Tract 3A, 0.25 acre tract</u></b>				
<b><u>COAL FEE OWNERSHIP</u></b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	0.25 acres (TR 17)Tract 3a	0.3159 %	0.0891 %	0.0558 %
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>				
(1) John Ford Rt.1, Box 169 Raven, VA 24639	0.25 acres (TR 17)Tract 3a	0.3159 %	0.0891 %	0.0558 %
<b><u>Tract 5, 6.03 acre tract</u></b>				
<b><u>COAL FEE OWNERSHIP</u></b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	6.03 acres (TR 17)Tract 5	7.5319 %	2.1244 %	1.3297 %
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>				
(1) Buchanan Production Co. P. O. Box 947 Bluefield, WV 24605	6.03 acres (TR 17)Tract 5	7.5319 %	2.1244 %	1.3297 %
<b><u>Tract 6, 1.91 acre tract</u></b>				
<b><u>COAL FEE OWNERSHIP</u></b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	1.91 acres (TR 17)Tract 6	2.3885 %	0.6737 %	0.4217 %
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>				
(1) Patty Chambers Rt. 1, Box 172 Raven, VA 24639	1.91 acres (TR 17)Tract 6	2.3885 %	0.6737 %	0.4217 %
<b><u>Tract 7, 12.26 acre tract</u></b>				
<b><u>COAL FEE OWNERSHIP</u></b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	12.26 acres (TR 17)Tract 7	15.3292 %	4.3236 %	2.7063 %
<b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>				
(1) Bonnie Keen Rt. 1, Box 172 Raven, VA 24639	12.26 acres (TR 17)Tract 7	15.3292 %	4.3236 %	2.7063 %

Exhibit E  
Oakwood Field Unit V-28  
VGOB-96/01/16-0530  
List of Conflicting Owners/Claimants

	Acres in Unit	Percent of Unit	Division of Interest in 1 LEFT = 28.2051%	Division of Interest in 2 LEFT = 17.6547%
<b>Tract 7a, 0.89 acre tract</b>				
<b>COAL FEE OWNERSHIP</b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	0.89 acres (TR 17)Tract 7a	1.1121 %	0.3137 %	0.1963 %
<b>OIL &amp; GAS FEE OWNERSHIP</b>				
(1) Coy Horn Box 555 Keen Mountain, VA 24624	0.89 acres (TR 17)Tract 7a	1.1121 %	0.3137 %	0.1963 %
<b>Tract 8, 1.47 acre tract</b>				
<b>COAL FEE OWNERSHIP</b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	1.47 acres (TR 17)Tract 8	1.8324 %	0.5168 %	0.3235 %
<b>OIL &amp; GAS FEE OWNERSHIP</b>				
(1) Corbit Jackson Rt. 1, Box 80 Raven, VA 24639	1.47 acres (TR 17)Tract 8	1.8324 %	0.5168 %	0.3235 %
<b>Tract 9, 0.13 acre tract</b>				
<b>COAL FEE OWNERSHIP</b>				
(1) Coal Mountain Mining Company Coal Mountain Trust P.O. Box 675 Tazewell, VA 24651	0.13 acres (TR 24)Tract 9	0.1643 %	0.0463 %	0.0290 %
<b>OIL &amp; GAS FEE OWNERSHIP</b>				
(1) Garden Realty c/o Betty Boyd King 2370 Lyndhurst Avenue Winston-Salem, NC 27103	0.13 acres (TR 24)Tract 9	0.1643 %	0.0463 %	0.0290 %
<b>Tract 11-13, 1.03 acre tract</b>				
<b>COAL FEE OWNERSHIP</b>				
(1) Coal Mountain Mining Company Coal Mountain Trust P.O. Box 675 Tazewell, VA 24651	1.03 acres (TR 24)Tract 11-13	1.2890 %	0.3636 %	0.2276 %
<b>OIL &amp; GAS FEE OWNERSHIP</b>				
(1) Garden Realty c/o Betty Boyd King 2370 Lyndhurst Avenue Winston-Salem, NC 27103	1.03 acres (TR 24)Tract 11-13	1.2890 %	0.3636 %	0.2276 %
<b>Tract 14, 0.51 acre tract</b>				
<b>COAL FEE OWNERSHIP</b>				
(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	0.51 acres (TR 17)Tract 14	0.6319 %	0.1782 %	0.1116 %
<b>OIL &amp; GAS FEE OWNERSHIP</b>				
(1) Kell E. Vandyke P. O. Box 588 Oakwood, VA 24631	0.51 acres (TR 17)Tract 14	0.6319 %	0.1782 %	0.1116 %

Exhibit E      BOOK 458 PAGE 163  
Oakwood Field Unit V-28  
VGOB-96/01/16-0530  
List of Conflicting Owners/Claimants

Acres in Unit	Percent of Unit	Division of Interest in	Division of Interest in
		1 LEFT = 28.2051%	2 LEFT = 17.6547%

**Tract 16, 6.66 acre tract**

**COAL FEE OWNERSHIP**

(1) Hugh MacRae Land Trust P.O. Box 29 Tazewell, VA 24651	6.66 acres (TR 17)Tract 16	8.3281 %	2.3489 %	1.4703 %
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**OIL & GAS FEE OWNERSHIP**

(1) Full Gospel Church P. O. Box 633 Oakwod, VA 24631	6.66 acres (TR 17)Tract 16	8.3281 %	2.3489 %	1.4703 %
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Exhibit B-2  
Oakwood Field Unit V-28  
VGOB-96/01/16-0530  
List of Respondents to be Dismissed

Reason for Dismissal	Acres in Unit	Percent of Unit	Division of Interest in	Division of Interest in
			1 LEFT = 28.2051%	2 LEFT = 17.6547%

## I. OIL &amp; GAS FEE OWNERSHIP

Tract 3, 24.46 acre tract

(1) A.J. Harmon heirs		24.46 acres	30.5700 %	8.6223 %	5.3970 %
(a) Henry Harmon Rt. 1, Box 171 Raven, VA 24639	Leased	8.8945 acres	11.1164 %	3.1354 %	1.9626 %
(b) Kendris Harmon 404 Fairway Drive Abingdon, VA 24210	Leased	2.2236 acres	2.7791 %	0.7838 %	0.4906 %

VIRGINIA: In the Clerk's Office of the Circuit Court of Buchanan County. The foregoing instrument was this day presented in the office aforesaid and is, together with the certificate of acknowledgment annexed, admitted to record this 15th day of February, 1997.  
Deed Book No. 458 and Page No. 153 TESTE: James M. Bevins, Jr., Clerk  
Returned this date to: Dept. of Mines TESTE: [Signature] Deputy Clerk  
Diane Davis

INSTRUMENT #970000348  
RECORDED IN THE CLERK'S OFFICE OF  
BUCHANAN COUNTY OH  
FEBRUARY 3, 1997 AT 02:32PM  
JAMES M. BEVINS JR., CLERK

BY: \_\_\_\_\_ DEPUTY CLERK